

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIAN J. ALEXANDER,

Plaintiff,

v.

MUNGUIA, et al.,

Defendants.

No. 2:21-cv-01390-KJM-CKD P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 9, 2022, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court

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1 . . .”). Having reviewed the file, the court finds the findings and recommendations to be  
2 supported by the record and by the proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed March 9, 2022, are **adopted in full**.
- 5 2. The due process claims against all defendants are **dismissed without leave to amend**.
- 6 3. This **case will proceed on the Eighth Amendment claim of excessive force against**  
7 **defendants Munguia and Rodriguez and the First Amendment retaliation claim**  
8 **against defendant Britton**.
- 9 4. The matter is referred back to the assigned magistrate judge for further pretrial  
10 proceedings.

11 DATED: July 11, 2022.

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14 CHIEF UNITED STATES DISTRICT JUDGE  
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